

FILEDUNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT

JUL 27 2007

07 JUL 30 PM LEONARD GREEN, Clerk

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

v.

GENEVA FRANCE,

Defendant-Appellant.

ORDER1:05CR536
PAG

Before: GILMAN and GRIFFIN, Circuit Judges; ACKERMAN, District Judge.*

The defendant appeals the judgment of sentence entered following her jury conviction on distribution of cocaine. The government and the defendant now jointly move to remand this matter to the district court to allow them to file a joint motion for a new trial on the basis of newly discovered evidence. Fed. R. Cr. P. 33(b) allows such a motion to be filed within three years of conviction. If an appeal is pending, the district court may not grant such a motion until the court of appeals remands the case. In this case, it is noted that the district court has granted the government's motion for the defendant's release pending review in anticipation of the motion for new trial.

Upon review and consideration, it is **ORDERED** that this case be remanded to the district court. This order is effective upon entry. The clerk is directed to immediately issue to the district court a certified copy of this order.

A TRUE COPY

Attest:

LEONARD GREEN, Clerk

By

Deputy Clerk

ENTERED BY ORDER OF THE COURT

Leonard Green

Clerk

*The Honorable Harold A. Ackerman, United States District Judge for the District of New Jersey, sitting by designation.